Single Bench

(3)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITIONNO. 840/2005

PETITIONER :- Ram Narayan Agrawal sone of late Balram Das Agrawal, aged about 53 years, religion Hindu Profession Business, resident of House No. 268 Samta Colony, Raipur, Tah. & District Raipur (C.G.).

P.R. No. 847/05
Presented by Shri M.K. Bhaduri
dated 01.03.05

VERSUS

RESPONDENTS :-1) The Unionof India,
Through - The Secretary,
Department of Finance,
New Delhi.

Served.
1.3.05

2) The Income Tax Appellate Tribunal
Nagpur Bench,
Nagpur (Maharashtra).

3) The Commissioner of Income Tax
(Appeals), Raipur (C.G.).

4) The Income Tax Officer, I (1)
Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA EOR ISSUANCE OF APPROPRIATE WRIT(S), ORDER(S) AND DIRECTION(S) TO DO JUSTICE IN THE MATTER.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(38)

आदेश पत्रक

मामला क्रमांक W.P.840/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11-3-2005

Mr. Malay Kumar Bhaduri, counsel for the petitioner.

Mr. Amit Chaudhari, Junior Standing Counsel for the Income Tax Department appears for the respondents.

Heard both the counsel.

The relief sought by the petitioner herein by this writ petition under Article 226/227 of the Constitution of India is that the effect and operation of Annexures P-1, P-2 & P-3 passed by the respondents be stayed till the sitting of Division Bench (Members) in the Income Tax Appellate Tribunal, Nagpur Bench, Nagpur.

Brief facts leading to filing of this writ petition are that the petitioner is an income tax assessee and he filed the return of total income for the year 2001-2002 showing his income as Rs.92,100/-. However, the Income Tax Officer assessed the income of the petitioner as Rs.20,99,297/- and accordingly, a notice was issued by the Assessing Officer for demand of Rs.11,01,964/-. Copies of these orders are Annexures P-1 & P-2. The petitioner preferred an appeal before the Income Tax Commissioner (Appeals) and the same was dismissed by the Commissioner vide its order dated 2-9-2004 against which the petitioner has preferred an appeal before the Income Tax Appellate Tribunal. As the disputed amount is more than Rs.5 lakhs, therefore, under the provisions of the Income Tax Act, the appeal is to be heard by the Division Bench and no Division Bench is available at Nagpur. Therefore, the petitioner's prayer is that till the Bench is available at Nagpur, operation and implementation of recovery under Annexures P-1 & P-2 be stayed.

Learned counsel for the petitioner submitted that even the appeal has been preferred but, on account of non-availability of two members of the Tribunal, the appeal is not being taken up for hearing on admission and stay, as such perforce, the petitioner has preferred this writ petition as there is no other alternative remedy available to him.

In the circumstances mentioned above, the request made by the petitioner appears to be just and proper. Therefore, the operation and implementation of

Office

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Soma	recovery under Annexures P-1 & P-2 is stayed for a period of six weeks from today and in the meantime, if the Division Bench of the Income Tax Appellate Tribunal at Nagpur is not available, then the Chairman of the Income Tax Tribunal to either transfer the appeal of the petitioner to a place where at least the stay application can be taken up for hearing or pass necessary order that two Hon'ble Members are available at Nagpur for taking up of such DB matters. With the above observation and directions, the petition stands disposed of. Consequently, M.(W.)P.No.680/2005 and I.A.No.1672/2005 also stand disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C. Bhadoo** **Judge**	